TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
CHA919990013US1

In Re Application Of: **Hatanaka**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/781,615	02/12/2001	Wood, W.	45095	2193	9504

Invention: **METHOD AND SYSTEM FOR INCORPORATING LEGACY APPLICATIONS INTO A DISTRIBUTED DATA PROCESSING ENVIRONMENT**

COMMISSIONER FOR PATENTS:

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:
February 9, 2006

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Dated: **March 16, 2006**

John A. Merecki
Reg. No. 35,812

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: **Hatanaka**
Serial No.: **09/781,615**
Filed: **02/12/2001**

Docket No.: **CHA919990013US1**
Group Art Unit: **2193**
Examiner: **Wood, W.**

TITLE: **METHOD AND SYSTEM FOR INCORPORATING LEGACY APPLICATIONS INTO A DISTRIBUTED DATA PROCESSING ENVIRONMENT**

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BRIEF OF APPELLANTS

This is an appeal from the Final Office Action dated November 1, 2005, rejecting claims 1-8.

REAL PARTY IN INTEREST

International Business Machines Corporation

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

As filed, this case included claims 1-8. Claims 1-8 remain pending, stand rejected, and form the basis of this appeal.

STATUS OF AMENDMENTS

An After-Final Amendment has not been filed in response to the Final Office Action dated November 1, 2005.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention provides a system and method for incorporating one or more legacy software applications (310 , FIG. 3; page 10, lines 7-11) into a distributed data processing system (FIG. 2; page 9, line 16 – page 10, line 6) such as may be found in a client-server environment. More particularly, the present invention relates to a method and system for incorporating legacy data processing applications into a distributed or client server environment by providing an Enterprise JavaBean (EJB) wrapper surrounding the legacy application, the EJB wrapper including an interface (320, FIG. 3; CHI, CRI, FIG. 4; page 10, line 12 – page 11, line 21) which allows for the distributed processing of logical components of the legacy application by a plurality of different processors (203-205, FIG. 2) over the network, wherein the EJB interface allows for the distributed processing and the legacy application retains its conventional processing.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1, 3, and 5 are unpatentable under 35 U.S.C. 102(a) over Secord et al., "A Survey of Black-Box Modernization Approaches for Information Systems," hereafter "Secord."
2. Whether claims 2 and 4 are unpatentable under 35 U.S.C. 103(a) over Secord and further in view of Sintas, "Does Java Pass by Reference or Pass by Value?"

3. Whether claims 6 and 8 are unpatentable under 35 U.S.C. 103(a) over Secord and further in view of "Dictionary of Computing," hereafter "Computing."
4. Whether claim 7 is unpatentable under 35 U.S.C. 103(a) over Seacord in view of Computing and Sintas.

ARGUMENT

(1) Rejection of claims 1, 3, and 5 under 35 U.S.C. 102(a) over Secord.

Appellant respectfully submits that the rejection of claims 1, 3 and 5 under 35 U.S.C. 102(a) over Secord is defective.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); see MPEP ' 2131, p. 2100-69. Because each and every element of claims 1, 3, and 5 is not found in Secord, Appellants respectfully request withdrawal of the rejection under 35 U.S.C. 102(a).

Regarding independent claim 1, Seacord fails to teach or suggest, *inter alia*, an "interface which allows for the **distributed processing of logical components of the legacy application by a plurality of different processors over the network**, wherein the EJB interface allows for the distributed processing and the legacy application retains its conventional processing."

In the rejection, the Examiner references the term "distributed" in the bulleted items in section 3.3.3 of Seacord. However, in section 3.3.3 of Seacord, the term "distributed" is directed to Microsoft's "**Distributed** interNet Architecture," not to EJB component

wrapping. Nowhere in Seacord is there disclosure related to the use of EJB component wrapping in a distributed processing environment as set forth in claim 1, nor is there any disclosure related to the distributed processing of logical components (beans) by a plurality of different processors. Indeed, Seacord provides no disclose regarding how the beans provided by the EJB server are processed by clients attached to the EJB server over a network.

The Examiner further alleges that the claimed "distributed processing" is disclosed on page 180, right column, first sentence, of Seacord. Appellant respectfully disagrees. The sentence referenced by the Examiner is as follows: "The first step in wrapping a legacy system using EJB is to separate the interface of the legacy system into modules consisting of logical units – shown in Figure 5 as Function 1 and Function 2." This sentence is directed to the splitting up of a legacy system into modules. Contrary to the assertions of the Examiner, however, this sentence is **completely silent with regard to the distributed processing of logical components by a plurality of processors over a network**. Nowhere is it disclosed in Seacord that such distributing processing of logical components is performed.

In the Response to Arguments section of the Office Action dated May 19, 2005, the Examiner further alleges, **without any supporting evidence**, that since "Seacord clearly indicates using EJB to wrap logical components of legacy applications, it follows that the components and functionality of the legacy system are provided in a distributed manner." Appellant disagrees. "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy,* 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in

original). To this extent, because the Examiner has not provided any evidence to support the alleged inherency of this feature, Appellant submits that the Examiner's use of inherency in rejecting this feature is improper.

Appellant submits that the rejection of claim 3 is defective for reasons similar to those presented above with regard to claim 1. With further regard to claim 3, Seacord fails to teach or suggest "providing an index to the components and the interface," wherein the components are located in different servers.

Accordingly, Appellant request withdrawal of the rejection of claims 1, 3, and 5 under 35 U.S.C. 102(a) over Secord.

(2) Rejection of claims 2 and 4 under 35 U.S.C. 103(a) over Secord in view of Sintas.

Appellant respectfully submits that claims 2 and 4 are allowable for reasons similar to those set forth above with regard to claims 1 and 3, respectively. Further, Appellant submits that Sintas fails to overcome the glaring deficiencies of Secord set forth above.

(3) Rejection of claims 6 and 8 under 35 U.S.C. 103(a) over Secord in view of Computing.

Appellant submits that the rejection of claims 6 and 8 is defective for reasons similar to those presented above with regard to claim 1. Further, Appellant submits that Computing fails to overcome the glaring deficiencies of Secord set forth above.

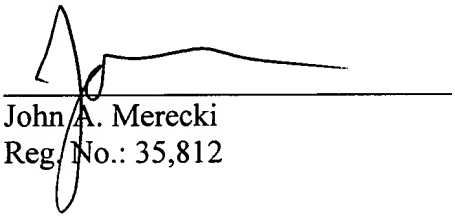
(4) Rejection of claim 7 under 35 U.S.C. 103(a) over Secord in view of Computing and Sintas.

Appellant submits that the rejection of claim 7 is defective for reasons similar to those presented above with regard to claim 1. Further, Appellant submits that Computing and Sintas fail to overcome the glaring deficiencies of Secord set forth above.

Conclusion

In summary, Appellant submits that claims 1-8 are allowable because the cited references, taken alone or in combination, fail to disclose each and every feature set forth in the claims as required by 35 U.S.C. 102(a) and 103(a).

Respectfully submitted,



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CLAIMS APPENDIX

1. A system for integrating a legacy application into a distributed data processing environment, the system comprising:

a legacy application located at a server coupled to a network; and

an Enterprise JavaBean (EJB) wrapper surrounding the legacy application, said EJB wrapper including an interface which allows for the distributed processing of logical components of the legacy application by a plurality of different processors over the network, wherein the EJB interface allows for the distributed processing and the legacy application retains its conventional processing.

2. The system for integrating a legacy application of claim 1, wherein the system is configured such that data can be passed by value rather than by reference.

3. A method of integrating a legacy application into a distributed data processing environment, the steps of the method comprising:

analyzing a legacy application to separate its functions into logical components;

distributing the logical components to different servers in the distributed data processing environment;

providing each logical component with an Enterprise JavaBean (EJB) interface; and

providing an index to the components and the interface.

4. The method of integrating a legacy application into a distributed data processing environment of claim 3, further including the step of providing a listing of a sequence of data so that it may be passed between logical components by value rather than by reference.

5. The method of integrating a legacy application into a distributed data processing environment of claim 3, further including the step of using a shared library accessing a component bean and a library of export symbols.

6. A program stored on a storage medium for adapting a legacy program to be used in a distributed data processing environment, the program comprising:

a first program module for providing an enterprise JavaBean;

a second program module for providing a function from the legacy application; and

a third program module for providing an index to the JavaBean and the function;

wherein each function from the legacy application is provided with an enterprise JavaBean to allow for distributed processing of the functions of the legacy application by a plurality of different processors over a network.

7. The program stored on a storage medium of claim 6, further including a fourth program module configured such that data may be passed by value and not by reference.

8. The program stored on a storage medium of claim 6, further including an additional program module which provides a shared library for an application and the shared library

includes an element for accessing a component bean and for accessing a list of export symbols.

EVIDENCE APPENDIX

No evidence has been submitted.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.